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CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.
(Only for Continuation or Divisional applications under 37 C.F.R. § 1.53(d))

CHECK BOX, if applicable:

☐ DUPLICATE

Address to:

Assistant Commissioner for Patents
Box CPA
Washington, DC 20231

Attorney Docket No.
of Prior Application

S-2418

First Named Inventor

Yoshihide HAGIWARA

Examiner Name

C. SHERRER

Group / Art Unit

1761

Express Mail Label No.

This is a request for a ☒ continuation or ☐ divisional application under 37 C.F.R. § 1.53(d),
(continued prosecution application (CPA)) of prior application number 08 / 950,902,
filed on 10/15/1997, entitled PROCESS FOR PRODUCTION OF ALCOHOLIC COFFEE DRINKS

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 C.F.R. § 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. A Notice will be placed on a patent issuing from a CPA, except for reissues and designs, to the effect that the patent issued on a CPA and is subject to the twenty-year patent term provisions of 35 U.S.C. § 154(a)(2). Therefore, the prior application of a CPA may have been filed before, on or after June 8, 1995.

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 C.F.R. § 1.53(d), but must be filed under 37 C.F.R. § 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 C.F.R. § 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 C.F.R. § 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 C.F.R. § 1.78(a).

1. ☒ Enter the unentered amendment previously filed on May 3, 2000
under 37 C.F.R. § 1.116 in the prior nonprovisional application.
2. ☐ A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 C.F.R. § 1.53 (d)(4).
a. ☐ The following inventor(s) named in the prior nonprovisional application:
345.00 OP
- b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

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CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS (37 C.F.R. § 1.16(c) or (j))	12	-20* =	0	x \$ _____ =	\$ _____
INDEPENDENT CLAIMS (37 C.F.R. § 1.16(b) or (i))	1	-3** =	0	x \$ _____ =	\$ _____
MULTIPLE DEPENDENT CLAIMS (if applicable) (37 C.F.R. § 1.16(d))				+ \$ _____ =	\$ _____
				BASIC FEE (37 C.F.R. § 1.16)	690.00
				Total of above Calculations =	690.00
Reduction by 50% for filing by small entity (Note 37 C.F.R. §§ 1.9, 1.27 & 1.28).					-345.00
* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.				TOTAL =	345.00

6. Small entity status:

- a. ☐ A small entity statement is enclosed, if (b) and (c) do not apply.
b. ☒ A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
c. ☐ Is no longer claimed.

7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 19 - 1980

- a. ☒ Fees required under 37 C.F.R. § 1.16.
b. ☐ Fees required under 37 C.F.R. § 1.17.
c. ☐ Fees required under 37 C.F.R. § 1.18.

8. ☒ A check in the amount of \$ 345.00 is enclosed.

9. ☐ New Attorney Docket Number, if desired _____

(Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.)

10 a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)

b. ☒ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)

11. ☒ Other: Communication

NOTE:

*The prior application's correspondence address will carry over to this CPA
UNLESS a new correspondence address is provided below.*

12. NEW CORRESPONDENCE ADDRESS

☐ Customer Number or Bar Code Label

or ☐ New correspondence address below

(Insert Customer No. or Attach bar code label here)

Name					
Address					
City	State	Zip Code			
Country	Telephone	Fax			

13. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Richard A. Steinberg
Signature	<i>Richard A. Steinberg</i>
Registration No. (Attorney/Agent)	26,588
Date	June 13, 2000

S-2418

PATENT

13
6-21-00
CW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

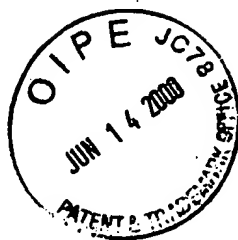
Yoshihide HAGIWARA

Serial No. 08/950,902

Filed: October 15, 1997

For: PROCESS FOR PRODUCTION OF ALCOHOLIC COFFEE DRINKS

The Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231



Group: 1761

Examiner: C. SHERRER

June 13, 2000

COMMUNICATION

Sir:

Applicants are continuing prosecution of the subject application by way of this Continued Prosecution Application (CPA), which includes entry of the previously unentered "AMENDMENT AFTER FINAL REJECTION" filed May 3, 2000 (see Advisory Action, Paper No. 11, mailed May 17, 2000).

In the Advisory Action, the Examiner refused to enter the amendments to the claims (claims 1, 5, 8, 9, 10, 12 and 15, and cancellation of claims 7 and 16) on the basis that the amendments raise new issues requiring further consideration and/or search, were not deemed to place the application in better form for appeal (a Notice of Appeal was timely filed on May 3, 2000). The examiner further explained that not all of the dependent claims were previously limited to the use of wine yeast or the production of wine drink. It was further suggested that the phrase "coffee wine drink" may be indefinite.

Applicants respectfully disagree with the Examiner's suggestion that the phrase "coffee wine drink" may be indefinite.

Applicants also disagree that the limitation of the main claim to the subject matter of previous claim 7, raises new issues, requiring further consideration or search, providing basis for refusing to enter the amendments.

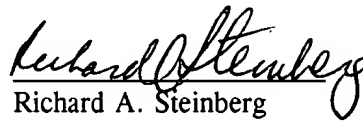
In regard to this latter point, while it is no doubt true that not all of the dependent claims were previously limited to the use of wine yeast or the production of a wine drink, it cannot be seen that this additional limitation in all of the dependent claims (by virtue of their dependence from the amended claim 1) raises new issues requiring further consideration and/or search. Specifically, it is clear that if the amended claim 1 is in condition for allowance, all of the claims dependent thereon would also be in condition for allowance. If claim 1, for whatever reason, was still not considered to be allowable, nevertheless, it is evident that the proposed amendments would have materially reduced the issues on appeal.

Regarding the expression "coffee wine drink" it is not recognized why this expression would not be immediately understood by those skilled in the art as defining an alcoholic coffee drink, wherein the alcohol is of the wine-type, namely, prepared by culturing using a wine yeast. It should be further noted that all of the working examples in the specification of this application are directed to production of coffee wines (i.e., "coffee wine drink") and, further, that these coffee wines are characterized by, e.g., "coffee color," "coffee-like aroma," "coffee-like taste," "coffee-like vinous taste" and the like.

Accordingly, for the reasons (REMARKS) fully set forth on pages 2-11, in the AMENDMENT AFTER FINAL REJECTION, which remarks are incorporated herein, in their entirety, it is again submitted that the subject application, with claims 1-4 and 8-15, is in condition for allowance and early notification thereof is earnestly solicited.

Respectfully submitted,

by



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Reg. No. 26,588

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